

EXHIBIT B

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6 Solutions, Inc.

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES
10

11 GARY WHITNEY,

12 Plaintiff,

13 vs.

14 DELPHI CORPORATION, a corporation,
DELPHI PRODUCT AND SERVICE
15 SOLUTIONS, INC., a corporation and
DOES 1 THROUGH 50, inclusive,
16 Defendants.
17

CASE NO. BC337315

Judge: Hon. Haley J. Fromholz
Dept: 20

DEFENDANTS DELPHI
CORPORATION AND DELPHI
PRODUCT & SERVICE
SOLUTIONS, INC.'S ANSWER TO
PLAINTIFF GARY WHITNEY'S
UNVERIFIED COMPLAINT FOR
DAMAGES

Filing Date: July 28, 2005
Trial Date: None Set

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19 Defendants Delphi Corporation and Delphi Product & Service Solutions,
20 Inc. ("Delphi") hereby answer the unverified Complaint ("Complaint") on file herein as
21 follows:
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23 Pursuant to the provisions of Cal. Civ. Proc. Code § 431.30(d), Delphi
denies, generally and specifically, each and every allegation contained in the Complaint.
24 Delphi further denies that plaintiff has been damaged in any sum, or at all, by reason of
25 any act or omission on the part of Delphi or on the part of any of its agents, servants,
26 representatives or employees, or any of them.
27
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1 And, for its affirmative defenses, Delphi alleges as follows:
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3 FIRST AFFIRMATIVE DEFENSE

4 1. The Complaint, and each purported cause of action contained
5 therein, fails to state facts sufficient to state a claim for relief against Delphi.
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7 SECOND AFFIRMATIVE DEFENSE

8 2. With respect to each purported cause of action set forth in the
9 Complaint, the injuries and damages alleged by plaintiff, if sustained at all, were
10 proximately caused and aggravated by plaintiff's own negligence or intentional conduct,
11 and plaintiff's recovery, if any, should be reduced or diminished to the extent the
12 damages were proximately caused by plaintiff's own negligent or intentional conduct.
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14 THIRD AFFIRMATIVE DEFENSE

15 3. With respect to each purported cause of action set forth in the
16 Complaint, plaintiff has failed to mitigate his damages, if any.
17

18 FOURTH AFFIRMATIVE DEFENSE

19 4. Plaintiff's complaint and each purported cause of action are barred
20 because plaintiff failed to exhaust the available internal remedies under his employer's
21 established internal grievance procedures.
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23 FIFTH AFFIRMATIVE DEFENSE

24 5. Any recovery on the Complaint, or any purported cause of action
25 contained therein, is barred by the doctrines of consent, laches, and/or waiver.
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SIXTH AFFIRMATIVE DEFENSE

6. With respect to each purported cause of action set forth in the Complaint, any of the acts alleged to have been performed by defendant, if performed at all, were privileged acts.

SEVENTH AFFIRMATIVE DEFENSE

7. Plaintiff is estopped from asserting the purported causes of action set forth in the Complaint.

EIGHTH AFFIRMATIVE DEFENSE

8. With respect to each of the purported causes of action set forth in the Complaint, any of the acts alleged to have been performed by defendant, if performed at all, were performed in accordance with, and justified by, "business necessity."

NINTH AFFIRMATIVE DEFENSE

9. With respect to each purported cause of action set forth in the Complaint, the punitive damages alleged by plaintiff cannot be recovered, as recovery of such damages violates the California Constitution and the United States Constitution.

TENTH AFFIRMATIVE DEFENSE

10. Plaintiff's recovery, if any, should be reduced or diminished to the extent his damages were caused by his own comparative bad faith.

ELEVENTH AFFIRMATIVE DEFENSE

11. Each of the purported causes of action set forth in the Complaint is barred by the doctrine of unclean hands.

TWELFTH AFFIRMATIVE DEFENSE

12. If plaintiff sustained any loss, injury, damage or detriment as alleged in the Complaint, the loss, injury, damage or detriment was caused by an independent superseding cause unrelated to the acts, omissions and/or conduct alleged in the Complaint.

THIRTEENTH AFFIRMATIVE DEFENSE

13. Each of the purported causes of action set forth in the Complaint is barred by the doctrine of "avoidable consequences."

FOURTEENTH AFFIRMATIVE DEFENSE

14. With respect to each purported cause of action set forth in the Complaint, plaintiff has failed to adequately exhaust his administrative remedies under Cal. Gov't Code §§ 12900 et seq and Cal. Civ. Pro. § 335.1.

FIFTEENTH AFFIRMATIVE DEFENSE

15. With respect to each purported cause of action set forth in the Complaint, the Workers' Compensation Act, *Cal. Lab. Code §§ 3201, et. seq.*, provides the exclusive remedy for the injuries alleged.

SIXTEENTH AFFIRMATIVE DEFENSE

16. Each of the purported causes of action set forth in the Complaint is barred by the applicable statute of limitations, including, without limitation, *Cal. Gov't Code §§ 12960 and 12965*.

1 WHEREFORE, Delphi prays for judgment as follows:

- 2 1. That plaintiff take nothing by way of the Complaint, and that the
3 Complaint be dismissed with prejudice.
- 4 2. That judgment be entered in favor of Delphi and against plaintiff.
- 5 3. For costs of suit incurred herein;
- 6 4. Attorney's fees; and
- 7 5. For such other and further relief as the Court may deem just and
8 proper.
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12 DATED: September 21, 2005

13 QUINN EMANUEL URQUHART OLIVER &
14 HEDGES, LLP

15 By Allison L. Burkholder
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17 Attorneys for Defendants
18 Delphi Corporation and Delphi Product Service
19 Solutions, Inc.
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